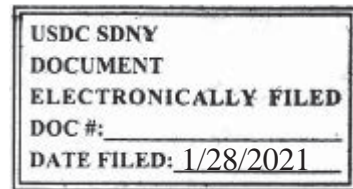


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



Brandon C. Jones,

Plaintiff,

—v—

Jisin H. Thomas, et al.,

Defendants.

20-cv-5581 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On January 22, 2021, Defendants filed a motion to dismiss the Second Amended Complaint pursuant to Rule 12(b) of the Federal Rules of Civil Procedure. Dkt. No. 21. Pursuant to Rule 3.F of this Court’s Individual Practices in Civil Cases, when a motion to dismiss is filed, the non-moving party may once elect to amend its complaint. It is hereby ORDERED that if Plaintiff intends to seek leave to file a third amended complaint, he shall do so by **February 22, 2021**. Plaintiff is hereby advised that any amended complaint will completely replace the operative complaint. Accordingly, if Plaintiff files an amended complaint, it should include all of the information he believes is necessary to make a short, plain statement explaining why he is entitled to relief against each defendant. Plaintiff is on notice that declining to amend his pleadings to timely respond to a fully briefed argument in the Defendants’ January 22, 2021 motion to dismiss may well constitute a waiver of the Plaintiff’s right to use the amendment process to cure any defects that have been made apparent by the Defendants’ briefing. *See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC.*, 797 F.3d 160, 190 (2d Cir. 2015) (leaving “unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility.”).

If Plaintiff chooses to amend, Defendants may then (a) file an answer; (b) file a new motion to dismiss; or (c) submit a letter stating that they intend to rely on the initially filed motion to dismiss.

IT IS FURTHER ORDERED that if no amended complaint is filed, Plaintiff shall serve

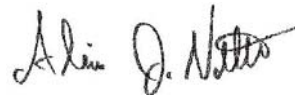
his opposition to Defendants' motion to dismiss by **February 22, 2021**. Defendants' reply, if any, shall be served by **March 8, 2021**.

IT IS FURTHER ORDERED that either party may request an extension of the briefing schedule for the motion. A deadline will be extended if the party demonstrates that its pursuit of the action has been diligent and that there is a good reason for extending the deadline.

The Clerk of Court is respectfully directed to mail a copy of this Order to the Plaintiff.¹

SO ORDERED.

Dated: January 27, 2021
New York, New York



ALISON J. NATHAN
United States District Judge

¹ In addition, the Plaintiff has consented to electronic service, *see* Dkt. No. 7.